

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3850
OFFERED BY MR. TAUZIN OR MRS. CUBIN**

Strike all after the enacting clause and insert the
following:

1 SECTION. 1. SHORT TITLE.

2 This Act may be cited as the “Independent Tele-
3 communications Consumer Enhancement Act of 2000”.

4 SEC. 2. FINDINGS AND PURPOSE.

5 (a) FINDINGS.—Congress finds the following:

6 (1) The Telecommunications Act of 1996 was
7 enacted to foster the rapid deployment of advanced
8 telecommunications and information technologies
9 and services to all Americans by promoting competi-
10 tion and reducing regulation in telecommunications
11 markets nationwide.

12 (2) The Telecommunications Act of 1996 spe-
13 cifically recognized the unique abilities and cir-
14 cumstances of local exchange carriers with fewer
15 than two percent of the Nation’s subscriber lines in-
16 stalled in the aggregate nationwide.

17 (3) Given the markets two percent carriers typi-
18 cally serve, such carriers are uniquely positioned to
19 accelerate the deployment of advanced services and

1 competitive initiatives for the benefit of consumers
2 in less densely populated regions of the Nation.

3 (4) Existing regulations are typically tailored to
4 the circumstances of larger carriers and therefore
5 often impose disproportionate burdens on two per-
6 cent carriers, impeding such carriers' deployment of
7 advanced telecommunications services and competi-
8 tive initiatives to consumers in less densely popu-
9 lated regions of the Nation.

10 (5) Reducing regulatory burdens on two percent
11 carriers will enable such carriers to devote additional
12 resources to the deployment of advanced services
13 and to competitive initiatives to benefit consumers in
14 less densely populated regions of the Nation.

15 (6) Reducing regulatory burdens on two percent
16 carriers will increase such carriers' ability to respond
17 to marketplace conditions, allowing them to accel-
18 erate deployment of advanced services and competi-
19 tive initiatives to benefit consumers in less densely
20 populated regions of the Nation.

21 (b) PURPOSES.—The purposes of this Act are—

22 (1) to accelerate the deployment of advanced
23 services and the development of competition in the
24 telecommunications industry for the benefit of con-
25 sumers in all regions of the Nation, consistent with

1 the Telecommunications Act of 1996, by reducing
2 regulatory burdens on local exchange carriers with
3 fewer than two percent of the Nation's subscriber
4 lines installed in the aggregate nationwide;

5 (2) to improve such carriers' flexibility to un-
6 dertake such initiatives; and

7 (3) to allow such carriers to redirect resources
8 from paying the costs of such regulatory burdens to
9 increasing investment in such initiatives.

10 **SEC. 3. DEFINITION.**

11 Section 3 of the Communications Act of 1934 (47
12 U.S.C. 153) is amended by adding at the end thereof the
13 following:

14 “(53) TWO PERCENT CARRIER.—The term ‘two
15 percent carrier’ means an incumbent local exchange
16 carrier within the meaning of section 251(h) that
17 has fewer than two percent of the Nation's sub-
18 scriber lines installed in the aggregate nationwide.”.

19 **SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CAR-**
20 **RIERS.**

21 Title II of the Communications Act of 1934 is
22 amended by adding at the end thereof a new Part IV as
23 follows:

1 **“PART IV—PROVISIONS CONCERNING TWO**
2 **PERCENT CARRIERS**

3 **“SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR**
4 **TWO PERCENT CARRIERS.**

5 “(a) COMMISSION TO TAKE INTO ACCOUNT DIFF-
6 FERENCES.—In adopting rules that apply to incumbent
7 local exchange carriers (within the meaning of section
8 251(h)), the Commission shall separately evaluate the bur-
9 den that any proposed regulatory, compliance, or report-
10 ing requirements would have on two percent carriers.

11 “(b) EFFECT OF RECONSIDERATION OR WAIVER.—
12 If the Commission adopts a rule that applies to incumbent
13 local exchange carriers and fails to separately evaluate the
14 burden that any proposed regulatory, compliance, or re-
15 porting requirement would have on two percent carriers,
16 the Commission shall not enforce the rule against two per-
17 cent carriers unless and until the Commission performs
18 such separate evaluation.

19 “(c) ADDITIONAL REVIEW NOT REQUIRED.—Noth-
20 ing in this section shall be construed to require the Com-
21 mission to conduct a separate evaluation under subsection
22 (a) if the rules adopted do not apply to two percent car-
23 riers, or such carriers are exempted from such rules.

24 “(d) SAVINGS CLAUSE.—Nothing in this section shall
25 be construed to prohibit any size-based differentiation
26 among carriers mandated by this Act, chapter 6 of title

1 5, United States Code, the Commission's rules, or any
2 other provision of law.

3 “(e) EFFECTIVE DATE.—The provisions of this sec-
4 tion shall apply with respect to any rule adopted on or
5 after the date of enactment of this section.

6 **“SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.**

7 “(a) LIMITATION.—The Commission shall not require
8 a two percent carrier—

9 “(1) to file cost allocation manuals or to have
10 such manuals audited, but a two percent carrier
11 shall annually certify to the Commission that the
12 two percent carrier's cost allocation complies with
13 the rules of the Commission; or

14 “(2) to file Automated Reporting and Manage-
15 ment Information Systems (ARMIS) reports.

16 “(b) PRESERVATION OF AUTHORITY.—Except as
17 provided in subsection (a), nothing in this Act limits the
18 authority of the Commission to obtain access to informa-
19 tion under sections 211, 213, 215, 218, and 220 with re-
20 spect to two percent carriers.

21 **“SEC. 283. INTEGRATED OPERATION OF TWO PERCENT**
22 **CARRIERS.**

23 “The Commission shall not require any two percent
24 carrier to establish or maintain a separate affiliate to pro-
25 vide any common carrier or noncommon carrier services,

1 including local and interexchange services, commercial mo-
2 bile radio services, advanced services (within the meaning
3 of section 706 of the Telecommunications Act of 1996),
4 paging, Internet, information services or other enhanced
5 services, or other services. The Commission shall not re-
6 quire any two percent carrier and its affiliates to maintain
7 separate officers, directors, or other personnel, network fa-
8 cilities, buildings, research and development departments,
9 books of account, financing, marketing, provisioning, or
10 other operations.

11 **“SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE**
12 **CAP REGULATION.**

13 “(a) NECA POOL.—The participation or withdrawal
14 from participation by a two percent carrier of one or more
15 study areas in the common line tariff administered and
16 filed by the National Exchange Carrier Association or any
17 successor tariff or administrator shall not obligate such
18 carrier to participate or withdraw from participation in
19 such tariff for any other study area.

20 “(b) PRICE CAP REGULATION.—A two percent car-
21 rier may elect to be regulated by the Commission under
22 price cap rate regulation, or elect to withdraw from such
23 regulation, for one or more of its study areas at any time.
24 The Commission shall not require a carrier making an
25 election under this paragraph with respect to any study

1 area or areas to make the same election for any other
2 study area.

3 **“SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS**
4 **SERVICES BY TWO PERCENT COMPANIES.**

5 “The Commission shall permit two percent carriers
6 to introduce new interstate telecommunications services by
7 filing a tariff on one day’s notice showing the charges,
8 classifications, regulations and practices therefor, without
9 obtaining a waiver, or make any other showing before the
10 Commission in advance of the tariff filing. The Commis-
11 sion shall not have authority to approve or disapprove the
12 rate structure for such services shown in such tariff. Noth-
13 ing in this part shall be construed to restrict the authority
14 of the Commission under sections 201 through 205 and
15 208.

16 **“SEC. 286. ENTRY OF COMPETING CARRIER.**

17 “(a) PRICING FLEXIBILITY.—Notwithstanding any
18 other provision of this Act, any two percent carrier shall
19 be permitted to deaverage its interstate switched or special
20 access rates, file tariffs on one day’s notice, and file con-
21 tract-based tariffs for interstate switched or special access
22 services immediately upon certifying to the Commission
23 that a telecommunications carrier unaffiliated with such
24 carrier has engaged in facilities-based entry within such
25 carrier’s service area.

1 “(b) PRICING DEREGULATION.—Notwithstanding
2 any other provision of this Act, upon receipt by the Com-
3 mission of a certification by a two percent carrier that a
4 local exchange carrier that is not a two percent carrier
5 is engaged in facilities-based entry within the two percent
6 carrier’s service area, the Commission shall regulate such
7 two percent carrier as non-dominant, and therefore shall
8 not require the tariffing of the interstate service offerings
9 of such two percent carrier.

10 “(c) PARTICIPATION IN EXCHANGE CARRIER ASSO-
11 CIATION TARIFF.—A two percent carrier that meets the
12 requirements of subsection (a) or (b) of this section with
13 respect to one or more study areas shall be permitted to
14 participate in the common line tariff administered and
15 filed by the National Exchange Carrier Association or any
16 successor tariff or administrator, by electing to include
17 one or more of its study areas in such tariff.

18 “(d) DEFINITIONS.—For purposes of this section:

19 “(1) FACILITIES-BASED ENTRY.—The term ‘fa-
20 cilities-based entry’ means, within the service area of
21 a two percent carrier—

22 “(A) the provision or procurement of local
23 telephone exchange switching capability; and

24 “(B) the provision of local exchange service
25 to at least one unaffiliated customer.

1 “(2) CONTRACT-BASED TARIFF.—The term
2 ‘contract-based tariff’ shall mean a tariff based on
3 a service contract entered into between a two per-
4 cent carrier and one or more customers of such car-
5 rier. Such tariff shall include—

6 “(A) the term of the contract, including
7 any renewal options;

8 “(B) a brief description of each of the
9 services provided under the contract;

10 “(C) minimum volume commitments for
11 each service, if any;

12 “(D) the contract price for each service or
13 services at the volume levels committed to by
14 the customer or customers;

15 “(E) a brief description of any volume dis-
16 counts built into the contract rate structure;
17 and

18 “(F) a general description of any other
19 classifications, practices, and regulations affect-
20 ing the contract rate.

21 “(3) SERVICE AREA.—The term ‘service area’
22 has the same meaning as in section 214(e)(5).

23 **“SEC. 287. SAVINGS PROVISION.**

24 “Nothing in this part shall be construed to diminish
25 the rights of rural telephone companies otherwise accorded

1 by this Act, or the rules, policies, procedures, guidelines,
2 and standards of the Commission as of the date of enact-
3 ment of this section.”.

4 **SEC. 5. LIMITATION ON MERGER REVIEW**

5 (a) AMENDMENT.—Section 310 of the Communica-
6 tions Act of 1934 (47 U.S.C. 310) is amended by adding
7 at the end the following:

8 “(f) DEADLINE FOR MAKING PUBLIC INTEREST DE-
9 TERMINATION.—

10 “(1) TIME LIMIT.—In connection with any
11 merger between two percent carriers, or the acquisi-
12 tion, directly or indirectly, by a two percent carrier
13 or its affiliate of the securities or assets of another
14 two percent carrier or its affiliate, the Commission
15 shall make any determination required by subsection
16 (d) of this section or section 214 not later than 60
17 days after the date an application with respect to
18 such merger is submitted to the Commission.

19 “(2) APPROVAL ABSENT ACTION.—If the Com-
20 mission does not approve or deny an application as
21 described in paragraph (1) by the end of the period
22 specified, the application shall be deemed approved
23 on the day after the end of such period. Any such
24 application deemed approved under this subsection
25 shall be deemed approved without conditions.”.

1 (b) EFFECTIVE DATE.—The provisions of this sec-
2 tion shall apply with respect to any application that is sub-
3 mitted to the Commission on or after the date of enact-
4 ment of this Act. Applications pending with the Commis-
5 sion on the date of enactment of this Act shall be subject
6 to the requirements of this section as if they had been
7 filed with the Commission on the date of enactment of
8 this Act.

9 **SEC. 6. TIME LIMITS FOR ACTION ON PETITIONS FOR RE-**
10 **CONSIDERATION OR WAIVER.**

11 (a) AMENDMENT.—Section 405 of the Communica-
12 tions Act of 1934 (47 U.S.C. 405) is amended by adding
13 to the end the following:

14 “(c) EXPEDITED ACTION REQUIRED.—

15 “(1) TIME LIMIT.—Within 90 days after receiv-
16 ing from a two percent carrier a petition for recon-
17 sideration filed under this section or a petition for
18 waiver of a rule, policy, or other Commission re-
19 quirement, the Commission shall issue an order
20 granting or denying such petition. If the Commission
21 fails to act on a petition for waiver subject to the
22 requirements of this section within this 90-day pe-
23 riod, the relief sought in such petition shall be
24 deemed granted. If the Commission fails to act on
25 a petition for reconsideration subject to the require-

1 ments of this section within this 90 day period, the
2 Commission's enforcement of any rule the reconsid-
3 eration of which was specifically sought by the peti-
4 tioning party shall be stayed with respect to that
5 party until the Commission issues an order granting
6 or denying such petition.

7 “(2) FINALITY OF ACTION.—Any order issued
8 under paragraph (1), or any grant of a petition for
9 waiver that is deemed to occur as a result of the
10 Commission's failure to act under paragraph (1),
11 shall be a final order and may be appealed.”.

12 (b) EFFECTIVE DATE.—The provisions of this sec-
13 tion shall apply with respect to any petition for reconsider-
14 ation or petition for waiver that is submitted to the Com-
15 mission on or after the date of enactment of this Act.
16 Pending petitions for reconsideration or petitions for waiv-
17 er shall be subject to the requirements of this section as
18 if they had been filed on the date of enactment of this
19 Act.